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VIA ECF

May 23, 2025

Honorable Yvonne Gonzalez Rogers
U.S.D.C., Northern District of California
Oakland Courthouse
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Pursuant to Case Management Order No. 23, Co-Lead Counsel for the School District Plaintiffs (“Plaintiffs”)¹ have identified *School District of the Chathams v. Meta Platforms, Inc. et al.*, No. 23-cv-01466 (N.D. Cal.) (“Chathams”) as the case that Plaintiffs choose to strike from the school district bellwether trial pool (“Trial Pool”). Additionally, Plaintiffs object to including *Board of Education Harford County v. Meta, et al.*, No. 23-cv-03065 (N.D. Cal.) (“Harford”) and *Spartanburg 6 Sch. Dist. v. Meta, et al.*, Case No. 24-cv-00106 (“Spartanburg 6”) in the Trial

¹ For ease of reference, School District Plaintiffs refer to the 12 cases in the bellwether discovery pool by their corresponding School District. *See Balt. City Bd. of Sch Comm’rs. v. Meta, et al.*, Case No. 23-cv-04064 (“Baltimore”); *Bd. of Educ. Harford Cnty. v. Meta, et al.*, Case No. 23-cv-03065 (“Harford”); *Bd. of Educ. Jordan Sch. Dist. v. Meta, et al.*, Case No. 24-cv-01377 (“Jordan”); *Breathitt Cnty. Bd. of Educ. v. Meta, et al.*, Case No. 23-cv-01804 (“Breathitt”); *Charleston Cnty. Sch. Dist. v. Meta, et al.*, Case No. 23-cv-04659 (“Charleston”); *DeKalb Cnty. Sch. Dist. v. Meta, et al.*, Case No. 25-cv-02310 (“DeKalb”); *Irvington Public Schs. v. Meta, et al.*, Case No. 23-cv-01467 (“Irvington”); *Saint Charles Parish Public Schs. v. Meta, et al.*, Case No. 24-cv-01098 (“St. Charles”); *Sch. Dist. of the Chathams v. Meta, et al.*, Case No. 23-cv-01466 (“Chathams”); *Spartanburg 6 Sch. Dist. v. Meta, et al.*, Case No. 24-cv-00106 (“Spartanburg”); *Sch. Bd. of Hillsborough Cnty. v. Meta, et al.*, Case No. 24-cv-01573 (“Hillsborough”); *Tucson Unified Sch. Dist. v. Meta, et al.*, Case No. 24-cv-01382 (“Tucson”).

Pool.² If these three cases are removed from the Trial Pool, the remaining cases will provide “an efficient vehicle to decide common legal issues and rule on the admissibility of key evidence”³ and allow the parties to assess the strengths and weaknesses of the claims and potential damages across all School District cases, and will thereby fulfill the goal of establishing a Trial Pool that fosters the ultimate resolution of this MDL.

I. PLAINTIFFS OBJECT TO INCLUDING HARFORD AND SPARTANBURG 6 IN THE TRIAL POOL

Plaintiffs object to including Harford and Spartanburg 6 in the Trial Pool, as inclusion of these two cases will not assist in assessing the strengths and weaknesses of the claims and potential damages across all School District cases.

A. Including Harford in the Trial Pool Would Not Foster the Resolution of This MDL

Harford is one of two cases in the bellwether discovery pool brought under Maryland law and was initially chosen by Plaintiffs. Since that time, the status of Harford’s public nuisance claims asserted under Maryland law has become unclear. Significantly, on February 21, 2025, the United States District Court for the District of Maryland certified, *inter alia*, the following question to the Maryland Supreme Court: “[W]hat are the elements of such a public nuisance claim, and what types of potential relief can a local government plaintiff seek when asserting such a claim?” *Anne Arundel Cnty. v. Express Scripts, Inc., et al.*, No. 24-cv-00090 (D. Md. Feb. 21, 2025) (order certifying state law question). Because a decision by the Maryland Supreme Court in *Anne Arundel County* could potentially impact claims that Harford and Baltimore have brought in this action, as further detailed below, it would be inefficient to include two Maryland cases in the Trial Pool.⁴

Baltimore is a larger School District in an urban setting with a population that is more diverse in numerous ways, making it more representative than Harford. Now that Hillsborough has been stricken by Defendants, Baltimore has the second-highest damages claimed by a bellwether School District. Accordingly, keeping Baltimore and removing Harford from the Trial

² Harford was one of Plaintiffs’ picks and Spartanburg 6 was one of Defendants’ picks for the bellwether discovery pool. If the strikes and these two recommendations are accepted, the remaining cases will include five of Defendants’ picks and three of Plaintiffs’ picks.

³ Melissa J. Whitney, Bellwether Trials in MDL Proceedings at 5, Fed. Judicial Ctr. & Judicial Panel on Multidistrict Litig. (2019); *see also* Eldon E. Fallon, *Bellwether Trials*, 89 UMKC L. Rev. 951, 952 (2021) “[T]he bellwether process [informs] such things as ... the economic costs of a trial, the effective use of jury questionnaires in selecting a jury, ... the testing of various theories of liability or defenses in a trial setting, and, finally, the result or verdict rendered by the jury.”).

⁴ Whitney, *supra* note 3, at 7 (noting that the transferee court must consider whether “state-specific case-law issues are central to the claims ... in an MDL proceeding such that the transferor court might be a better venue for trials”).

Pool helps the parties better assess the strength of their claims and the potential magnitude of liability in this MDL.

In addition, the student population and demographics of Harford are similar to other bellwether school districts. For instance, Harford has a student population that is approximately the same size as the student population in Tucson.

While Harford was originally a Plaintiff pick for the discovery pool, whereas Baltimore was a Defendant pick, Plaintiffs have objectively evaluated the representativeness of these cases and determined that Harford is the more appropriate case to remove to fulfill the goal of establishing a Trial Pool that is representative and fosters the ultimate resolution of this MDL.

B. Including Spartanburg 6 in the Trial Pool Would Not Foster the Resolution of this MDL

Spartanburg 6 is one of two cases brought under South Carolina law in the bellwether discovery pool and was initially chosen by Defendants. This Court has since held that, unlike the majority of states in this MDL, South Carolina law does not recognize public nuisance claims in this context. Order on Mot. to Dismiss Sch. Dist. & Gov't. Entities' Pub. Nuisance Claims, ECF No. 1332 at 9. Crucially, the "ultimate goal" in forming a bellwether trial pool is "to obtain representative data to assist with global settlement or move the MDL proceeding forward efficiently."⁵ This goal is undercut by populating the pool with multiple school districts that do not maintain both claims asserted by school districts in this MDL.

Another case in the Trial Pool—Charleston—also asserts a negligence claim under South Carolina law, and given that Charleston is a larger school district with a greater student population comprised of diverse experiences, it is the better choice to serve as the South Carolina case to remain in the Trial Pool. Additionally, Spartanburg 6 has similar demographics to other cases in the Trial Pool. Indeed, Spartanburg 6 has a student population that is about the same size as Irvington and St. Charles. Moreover, Spartanburg 6 is a mixed rural and suburban district and thus encompasses the same types of populations that will be represented in other cases in the Trial Pool, i.e., Jordan, DeKalb, Irvington, Breathitt, and St. Charles.

Spartanburg 6 is also a non-ideal bellwether selection for geographic reasons. Half of the bellwether School Districts are in southern states, yet cases in southern states comprise only about one-fifth of this MDL. Because the South is already amply represented in the bellwether pool and in Plaintiffs' recommended Trial Pool, including Spartanburg 6 would present a geographic imbalance. Compounding this issue, Spartanburg 6 shares multiple similarities with St. Charles, which is located in another Southern state in the bellwether discovery pool. Spartanburg 6 and St. Charles both serve similar-sized student populations (approximately 12,000 and 9,300 students, respectively),⁶ and are in suburban areas. Accordingly, Spartanburg 6 does not have unique characteristics unaccounted for in Plaintiffs' proposed Trial Pool.

⁵ Whitney, *supra* note 3, at 28.

⁶ See Plaintiff Fact Sheet – St. Charles at 5; Plaintiff Fact Sheet – Spartanburg 6 at 5.

II. THE REMAINING CASES IN THE TRIAL POOL REPRESENT A FAIR CROSS-SECTION OF THE SCHOOL DISTRICT CASES IN THIS MDL

After accounting for the parties' strikes and Plaintiffs' objection to including Harford and Spartanburg 6 in the Trial Pool, the remaining cases establish a Trial Pool composed of a diverse mix of School Districts asserting public nuisance and/or negligence claims, and reflect a fair-handed approach to the selection process.

The remaining eight cases Plaintiffs have selected for the Trial Pool meet all of the "salient factors" that this Court has emphasized as being important for school district bellwether representativeness: student population size; whether the school district is in an urban, rural, or suburban area; income level and/or percentage of students eligible to receive free and/or reduced meals; and geography. CMO 13 at 4. The Trial Pool will account for each of these factors and reflect the overall diversity of the 1,040 school district cases currently pending in this MDL. Further, a majority of these eight School Districts were initially proposed by Defendants, meaning Defendants previously agreed that these School Districts are adequately representative by previously advocating for their inclusion in the bellwether discovery pool.⁷ Ultimately, the remaining Trial Pool will serve its purpose of assisting the parties in assessing the strengths and weaknesses of their claims and will help bring this case towards resolution.

A. Student Population Size

After the parties' strikes and Plaintiffs' recommendations to remove Harford and Spartanburg 6, the eight remaining districts in the Trial Pool account for over 500,000 students, and encompass both large and small school districts, with student populations ranging from approximately 1,600 (Breathitt) to approximately 92,000 (DeKalb). As reflected in the chart below, the eight remaining districts adequately represent the variety of student populations reflected across school districts in this MDL.

School District	State	Student Population ⁸
DeKalb	Georgia	92,000
Baltimore	Maryland	75,800
Jordan	Utah	57,000
Charleston	South Carolina	51,000

⁷ These are Baltimore, Breathitt, DeKalb, Irvington, and St. Charles. *See* Defs' Br. in Support of Bellwether Discovery Pool Selections ("Defs.' Disc. BW Br.") at 5, ECF No. 756.

⁸ Student populations indicated in this chart are approximate and derived from the Plaintiff Fact Sheets filed with the Court. *See* Plaintiff Fact Sheet – DeKalb at 5; Plaintiff Fact Sheet – Baltimore at 5; Plaintiff Fact Sheet – Jordan at 5; Plaintiff Fact Sheet – Charleston at 5; Plaintiff Fact Sheet – Tucson at 5; Plaintiff Fact Sheet – St. Charles at 5; Plaintiff Fact Sheet – Irvington at 5; Plaintiff Fact Sheet – Breathitt at 5.

Tucson	Arizona	40,000
St. Charles	Louisiana	9,300
Irvington	New Jersey	7,800
Breathitt	Kentucky	1,600

Defendants opted to strike Hillsborough, which serves over 200,000 students and would likely present one of the largest damages awards in this MDL. This strike makes it imperative that other school districts with large student populations remain in the Trial Pool to maintain a representative pool. Because large school districts present in a single case nearly every imaginable issue that may arise in the various cases in the MDL, any settlement or trial verdict reached in these cases will play a significant role in fostering the resolution of the MDL.

Importantly, to ensure that the population of school district Plaintiffs in the MDL are adequately represented, Plaintiffs strongly recommend the inclusion of DeKalb. With almost 92,000 students, 138 schools, and 14,000 staff members,⁹ DeKalb's size ensures that a bellwether trial will present important data points on a wide variety of issues related to problems caused by social media and likely lead to important information about case values, whether through settlement or a potential verdict. Indeed, Defendants initially advocated for the inclusion of DeKalb as a bellwether, noting its large size as a factor in making it worthy of inclusion. *See* Defs.' Disc. BW Br. at 1. Similarly, as discussed above, Baltimore is the second largest district in this Trial Pool with approximately 75,800 students, and Defendants likewise previously advocated for its inclusion. *Id.* at 5.

This Trial Pool also contains multiple mid-sized school districts, such as Tucson (approximately 40,000 students), Charleston (approximately 51,000 students), and Jordan (approximately 57,000 students). School districts such as these are also representative selections, as they are likely to face problems encountered by both bigger and smaller districts. These mid-sized districts are additionally large enough to have substantial damages that will move the needle in negotiations or from a trial perspective.

Additionally, the Trial Pool accounts for three school districts with small populations of fewer than 10,000 students (Breathitt, Irvington, and St. Charles). This Trial Pool, therefore, accounts for the entire range of population sizes at issue in this MDL and does not merely reflect the school districts with the greatest potential damages.

B. Whether the School District Is Urban, Rural, or Suburban and Ethnic Diversity

The Trial Pool also includes a balanced sampling of suburban, urban, and rural school districts, including districts from each category. Significantly, two of the school districts represent

⁹ DeKalb County School District Fact Sheet 2024-2025, <https://dekalbschoolsga.blob.core.windows.net/wpcontent/2024/10/FACTS-2024-1.pdf>.

a mix of different regions: (1) Charleston, which is predominantly urban but also contains suburban and rural schools; and (2) Tucson, which is predominantly urban but also contains rural schools. These selections ensure balanced representation of all regional categories reflected in this MDL:¹⁰

School District	State	Type
Baltimore	Maryland	Urban
Breathitt	Kentucky	Rural
Charleston	South Carolina	Urban

¹⁰ Unless otherwise noted, the school district data referenced in this brief are approximate and are taken from the following sources: *Free and Reduced-Price Meals Data*, Maryland State Department of Education, <https://marylandpublicschools.org/programs/SchoolandCommunityNutrition/Pages/FreeReducedPriceMealStatistic.aspx> (follow “Statewide Detail by Agency” hyperlink); *Enrollment by Race/Ethnicity and Gender and Number of Schools*, Maryland State Department of Education, <https://marylandpublicschools.org/about/Documents/DCAA/SSP/20242025Student/2024-2025-Enrollment-By-Race-Ethnicity-Gender-A.pdf>; *Kentucky Education Facts*, Kentucky Department of Education, <https://www.education.ky.gov/comm/edfacts/Pages/default.aspx> (follow “2023 Kentucky District Data Profiles” hyperlink); *Student Population at Breathitt County Public Schools*, Niche, <https://www.niche.com/k12/d/breathitt-county-public-schools-ky/students/>; *Active Student Headcounts*, South Carolina Department of Education, <https://ed.sc.gov/data/other/student-counts/active-student-headcounts/> (follow “District Headcount by Gender, Ethnicity and Pupils in Poverty 2024-25” hyperlink); *Charleston County School District*, Niche, <https://www.niche.com/k12/d/charleston-county-school-district-sc/#schools>; *Georgia Insights*, Georgia Department of Education <https://georgiainsights.gadoe.org/> (search “Data Reports,” follow hyperlinks for “Enrollment by Ethnicity/Race and Gender” and “Free and Reduced Meal Price Eligibility”); *Tucson Unified District*, USNews.com, <https://www.usnews.com/education/k12/arizona/districts/tucson-unified-district-4403-111352>; Arizona Department of Education, AZ School Report Cards, Tucson Unified District, <https://azreportcards.azed.gov/districts/detail/4403>; Jordan School District, <https://jordandistrict.org/resources/statistics/>; *Jordan School District*, Niche, <https://www.niche.com/k12/d/jordan-district-ut/>; New Jersey Department of Education, NJ School Performance Report, Irvington Public School District (13-2330) <https://rc.doe.state.nj.us/2023-2024/district/summary/13/2330> ; *Demographics SY 2024-25*, DeKalb County School District, <https://www.dekalbschoolsga.org/documents/data-dashboards/2025/demographics.pdf>; *DeKalb County School District*, USNews.com, <https://www.usnews.com/education/k12/georgia/districts/dekalb-county-109387>; *St. Charles Parish Public Schools*, USNews.com, <https://www.usnews.com/education/k12/louisiana/districts/st-charles-parish-102184>; *CCSD Public Interactive Dashboard*, Charleston County School District, <https://www.ccsdschools.com/divisions/deputy-superintendent/accountability-and-assessment/assessment-and-evaluation/ccsd-public-interactive-dashboard>; *Charleston County School District*, USNews.com, <https://www.usnews.com/education/k12/south-carolina/districts/charleston-01-106145>.

DeKalb	Georgia	Suburban
Irvington	New Jersey	Urban
Jordan	Utah	Suburban
St. Charles	Louisiana	Suburban
Tucson	Arizona	Urban

The Trial Pool also maintains the bellwether discovery pool's ethnic diversity:¹¹

School District	Hispanic/Latino	White	Black or African American	Asian or Asian Pacific Islander	American Indian or Alaska Native	Native Hawaiian or Other Pacific Islander	Two or more races
Baltimore	20.1%	7.0%	69.6%	1.0%	0.2%	0.1%	2.0%
Breathitt	1.5%	97.3%	0.8%	0.2%	0.1%	0%	0.2%
Charleston	16.8%	49.3%	27.3%	0.1%	0.0%	0.0%	0.04%
DeKalb	23.1%	11.4%	54.4%	0.07%	0.0%	0.0%	0.03%
Irvington	31.8%	0.3%	67.1%	0.3%	0.1%	0.2%	0.3%
Jordan	20.1%	70.0%	1.1%	1.7%	0.4%	2.1%	4.7%
St. Charles	11.2%	51.2%	31.9%	1.3%	0.3%	0.1%	4.0%
Tucson	65.4%	18.0%	6.6%	<2%	3.7%	<2%	4.0%

Notably, Plaintiffs' proposed Trial Pool retains two schools with significant populations of Hispanic/Latino students (Tucson, at 65.4%, and Irvington, at 31.8%). Given Defendants' removal of Hillsborough, which has a Hispanic/Latino population of 38.8%, it is important for the Trial Pool to retain one or both of these School Districts to ensure adequate ethnic diversity across the Trial Pool.

Baltimore, DeKalb, and Irvington also supply the Trial Pool with ethnic diversity, as these School Districts contain significant Black and/or African American student populations (Baltimore serves a Black/African-American population of 69.6%, DeKalb serves a Black/African American population of 54.4%, and Irvington serves a Black/African American population of 67.1%). The use of mental health services in schools is most pronounced among racial minorities and those

¹¹ Data in this table are derived from the sources set forth *supra*, note 10.

from low-income families, highlighting the importance of including these school districts in the Trial Pool.¹²

C. Income Level

The Trial Pool further accounts for economic diversity across school districts in the MDL. Given that the percentage of students receiving free or reduced lunch ranges from 17.6% to over 93%, this pool accounts for a wide variety of economic backgrounds:

School District	Free/Reduced Lunch Eligibility ¹³
Baltimore	>93.0%
DeKalb	81.5%
Breathitt	77%
Irvington	64.0%
Tucson	62.2%
Charleston	56.0%
St. Charles	33.6%
Jordan	17.6%

D. Geography

Lastly, the Trial Pool provides geographic diversity by including school districts from the East/Mid-Atlantic (Irvington, New Jersey; and Baltimore, Maryland), South (Charleston, South Carolina; DeKalb, Georgia; St. Charles, Louisiana; and Breathitt, Kentucky), and West (Jordan, Utah; and Tucson, Arizona). This also includes school districts located in the Third, Fourth, Fifth, Sixth, Ninth, Tenth, and Eleventh Circuit Courts of Appeals.¹⁴

Critically, it is important to keep Jordan and Tucson in the Trial Pool to ensure adequate geographic diversity, given that they are the only school districts in the pool located in the West. Removing these school districts would result in a Trial Pool lacking adequate geographic representation.

¹² See May 16, 2025 Report of Dr. Sharon A. Hoover, PhD, at ¶ 86.

¹³ Data in this table are derived from the sources set forth *supra*, note 10.

¹⁴ Importantly, Plaintiffs have sought to maintain an even spread of geographic representation by striking Chatham on the basis that it shares a home state (New Jersey) with Irvington. Geographic concerns aside, including both New Jersey school districts in the trial pool is not ideal, given that New Jersey is asserting only negligence claims. Moreover, given its larger population and higher degree of ethnic diversity, Irvington—a district originally proposed by Defendants—is ultimately a preferable selection over Chatham.

Relatedly, Plaintiffs' remaining Trial Pool reflects a range of political leanings by accounting for liberal-leaning areas (Tucson, Charleston, Baltimore, and Irvington), "swing" areas (Jordan and DeKalb), and conservative-leaning areas (Breathitt and St. Charles).

III. FURTHER NARROWING OF THE POOL

In CMO 10, the Court expressed its intention to select a Trial Pool of five school district bellwethers. CMO 10 at 4-5. Plaintiffs respectfully suggest that, while there are multiple combinations of the eight cases identified in this brief that would be sufficiently representative, the Court should include Tucson, Jordan, DeKalb, and Baltimore in its final selection of five. These school districts include two of Plaintiffs' picks and two of Defendants' picks. They are fairly representative in terms of geography, including two districts in the West, one in the South, and one in the mid-Atlantic. They are fairly representative in terms of demographics, including two majority African American districts, one majority Hispanic/Latino district, and one majority White district. They are evenly split in terms of urban and suburban geographies. And they cover a wide gamut of socioeconomic diversity, ranging from 17.5% to over 93% of the student body eligible for free/reduced lunch.

IV. CONCLUSION

After the parties' strikes and Plaintiffs' recommendations to remove Harford and Spartanburg 6, the Trial pool would include eight representative school districts that will enable the parties and the Court to test central issues likely to influence the ultimate resolution of this litigation.

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Respectfully submitted,

/s/ Lexi J. Hazam

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